



DISADVANTAGED BUSINESS ENTERPRISE PLAN

Recognizes the responsibility to ensure that Disadvantaged Business Enterprises (DBEs) have equal opportunity to participate in the performance of USDOT-assisted contracts and subcontracts as administered by an agency receiving federal financial assistance.

**CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS
COLUMBIA AREA TRANSPORTATION STUDY
METROPOLITAN PLANNING ORGANIZATION
DISADVANTAGED BUSINESS ENTERPRISE PLAN**

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POLICY STATEMENT

CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

CMCOG has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR, Part 26. CMCOG receives federal financial assistance from the USDOT, and as a condition of receiving this assistance, CMCOG has signed an assurance that it will comply with 49 CFR, part 26.

It is the policy of CMCOG to ensure that all businesses have an equal opportunity to receive and participate in USDOT assisted contracts. It is also CMCOG's policy:

1. To ensure nondiscrimination in the award and administration of USDOT assisted contracts;
2. To create a level playing field on which DBEs and small businesses can compete fairly for USDOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR, part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs and small businesses in USDOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

CMCOG has designated the Transportation Director, as the CMCOG DBE Liaison Officer (DBELO). In that capacity, the DBELO is responsible for implementing all aspects of the DBE program. Other CMCOG staff will assist the DBELO, as needed, with DBE requirements and compliance. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by CMCOG in its financial assistance agreements with the USDOT.

CMCOG will ensure that this policy statement will be disseminated to the CMCOG Board of Directors, department heads, and all of the components of the organization. CMCOG will distribute this statement by mail and/or email to DBE and non-DBE business communities that work for CMCOG on USDOT assisted contracts, and by posting it on the CMCOG website.

Benjamin J. Mauldin, Executive Director

Date

DEFINITIONS OF TERMS (SECTION §26.5)

Central Midlands Council of Governments will adopt the definitions contained in Section 26.5 of Part 26 for this program.

INTRODUCTION

The Central Midlands Council of Governments (CMCOG) recognizes its responsibility to ensure that Disadvantaged Business Enterprise (DBE) firms have equal opportunity to participate in the performance of USDOT assisted contracts administered by CMCOG. As part of our continued effort to fulfill this responsibility, CMCOG has revised the DBE Program Plan to reflect the requirements and guidance contained in title 49 Code of Federal Regulations Part 26.

Significant changes in the Plan will be submitted to the local FHWA and FTA offices for approval.

PURPOSE

The purpose for the DBE Program Plan is to provide guidance for CMCOG personnel in implementing 49 CFR Part 26 and provide DBEs and other contractor's information on their responsibilities on USDOT assisted contracts and CMCOG's implementing procedures. It assures USDOT that CMCOG will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award or performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex or national origin.

In administering the DBE program, CMCOG will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

APPLICABILITY (SECTION §26.3)

The DBE Program applies to all USDOT-assisted transportation-related contracts administered by CMCOG and Titles I, III, V, and VI of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102240, or by federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and the Fixing

America's Surface Transportation Act (FAST Act), Sec. 1109, Surface Transportation Block Grant Program.

The Program's requirements also apply to USDOT-funded non-construction programs including:

- Professional Service Agreements (training, computer, etc.)
- Architectural/Engineering Contracts

CMCOG will develop, an annual DBE participation goal using the methodology established in this DBE Plan. The goal will be provided by CMCOG to the appropriate USDOT administration.

In accordance with 49 CFR 26.49, transit vehicle manufacturers, as a condition of being authorized to bid on FTA-assisted transit vehicle procurements, will also be required to establish and submit for FTA's approval an overall DBE percentage goal.

Sub-recipients who receive USDOT (FTA and FAA) funds through CMCOG as noted above and award more than \$250,000 in prime contracts in a fiscal year are required to comply with the provisions of 49 CFR Part 26 and develop their own DBE Program Plan, or adopt and utilize the CMCOG DBE Program Plan.

Additionally, agreements between CMCOG and all sub-recipients will contain assurances that sub-recipients will not discriminate on the basis of race, color, national origin, sex, age, disability/handicap, and income status in the performance of this contract as well as language that obligates sub-recipients to develop, and implement, their own DBE Plan or to adopt, and implement, the provisions of the CMCOG DBE Program.

FEDERAL FINANCIAL ASSISTANCE AGREEMENT ASSURANCE (SECTION §26.13)

CMCOG has signed the following assurance, applicable to all USDOT assisted contracts and their administration. Agreements with subrecipients will also include this assurance:

The Central Midlands Council of Governments shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. CMCOG's DBE Program, as required by 49 CFR 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to CMCOG of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under Part 26 and may,

in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

CMCOG will not intimidate, threaten, coerce, or discriminate against any individual or firm for any reason.

CONTRACT ASSURANCE (SECTION §26.13(B))

CMCOG will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

NONDISCRIMINATION. (SECTION §26.7)

CMCOG will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, CMCOG will not directly or through contractual or other arrangements use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

RECORD KEEPING (Section §26.11(d))

The CMCOG will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the CMCOG or FTA. This reporting requirement also extends to any certified DBE subcontractor.

The CMCOG will perform interim audits of contract payments to DBEs. The audit will review payments to DBE sub-contractors to ensure that the actual amount paid to DBE sub-contractors equals or exceeds the dollar amounts stated in the schedule of DBE participation

The CMCOG will keep a running tally of actual payments to DBE firms for work committed to them at the time of the contract award. The CMCOG will perform interim reviews of contract payments to DBEs and will monitor payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

NONCOMPLIANCE COMPLAINTS (SECTION §26.103)

Any person who believes that CMCOG or its subrecipient has failed to comply with the obligations of 49 CFR Part 26 may file a written complaint with the either the Federal Transit and/or Highway Administrations (FTA/FHWA) Office of Civil Rights in Washington, D. C. The written complaint must be filed within 180 days after the occurrence of the alleged violation or the date on which the person learned of an ongoing violation. The person may also request an extension of time to file beyond the 180 days by stating a reason in the interest of justice for so doing.

DBE PROGRAM UPDATES (SECTION §26.21)

Since CMCOG has received a grant of \$250,000 or more in FTA planning, capital, and/or operating assistance, in a federal fiscal year, we will continue to carry out this program until all funds from USDOT financial assistance have been expended. CMCOG will provide to USDOT updates representing significant changes in the program.

DBE LIAISON OFFICER (DBELO) (SECTION §26.25)

DBE program objectives are implemented and monitored by Transportation Director who is designated as the DBE Liaison Officer with overall responsibility for the program. The following individual has been designated as the DBE Liaison Officer:

Reginald Simmons
Central Midlands Council of Governments
236 Stoneridge Drive
Columbia, SC 29210
(803) 376-5390 Phone
(803) 376-5394 Fax
rsimmons@centralmidlands.org

While the Transportation Director reports to the Executive Director, he/she has direct independent access to the Executive Director concerning DBE program matters as reflected on the organizational chart. Duties and responsibilities include:

The DBELO is responsible for developing, implementing, and monitoring CMCOG’s DBE program in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by USDOT.
2. Reviews third party contracts utilizing Federal USDOT funds for compliance with this program.
3. Works with all departments using Federal USDOT funds to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes CMCOG’s progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director/CMCOG’s Board of Directors on DBE matters and achievement.
9. Participates with the legal counsel and project director to determine contractor compliance with “good faith efforts.”
10. Provides DBEs with information and assistance in preparing bids.
11. Attends national and state DBE training seminars.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Reviews directories of certified DBEs compiled by local agencies.

DBE FINANCIAL INSTITUTIONS (SECTION §26.27)

It is the policy of the CMCOG to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime consultants on DOT-assisted contracts to make use of these institutions. These institutions can be identified in the U.S. Department of Treasury, Financial Management Services Division, Minority Bank Deposit Program. The availability of such institutions can be obtained at the U.S. Department of Treasury website: <http://www.fms.treas.gov/mbdp>.

The CMCOG re-evaluates the availability of DBE financial institutions every 18 months.

PROMPT PAYMENT AND RETAINAGE (Section §26.29 (a)(b))

Prompt Payment: 26.29(a)

The CMCOG ensures that the following clause is placed in every DOT-assisted contract and subcontract:

The prime consultant or subgrantee agrees to pay each subconsultant under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime consultant or subgrantee receives from the CMCOG. The prime consultant or subgrantee agrees further to return retainage payments to each subconsultant within 30 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment

from the above referenced time frame may occur only for good cause following written approval of the CMCOG. This clause applies to both DBE and non-DBE subconsultants.

Retainage: 26.29(b)

The CMCOG ensures that the following clause is placed in every DOT-assisted contract and subcontract:

The prime consultant agrees to return retainage payments to each subconsultant within 30 days after the subconsultants work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the CMCOG. This clause applies to both DBE and non-DBE subconsultants.

SATISFACTORY COMPLETION (§26.29(c))

For purposes of this section, a subcontractor's work is determined to be satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

**MONITORING AND ENFORCEMENT MECHANISMS
(SECTION §26.29 (d))**

The CMCOG has established the following to monitor and enforce that prompt payment and return of retainage is in fact occurring:

1. Requiring prime contractors (in sub-contracts in excess of \$10,000), to provide subcontractors with all contract provisions, including the prompt payment provision. This will ensure that the subcontractors are knowledgeable of the prompt payment requirement.
2. Because the contract requires prompt payment by the prime contractor to the subcontractor, the subcontractor is entitled to prompt payment. Because subcontractors will be aware of this right, and it is in their greatest financial interest to assure that this right is respected, we believe it is reasonable to expect that subcontractors not receiving prompt payment will contact the CMCOG.
3. If the CMCOG is contacted by a subcontractor regarding possible violation of the prompt payment clause by the prime contractor we will make inquiries to the prime contractor.

Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval from the CMCOG. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than thirty (30) calendar days from the receipt of payment from the CMCOG may constitute a breach of contract and may result in termination of the Contractor for default or such other remedy the CMCOG may deem appropriate.

DBE DIRECTORY (SECTION §26.31)

The South Carolina Department of Transportation maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. SCDOT revises the Directory monthly. The Directory may be found at the following link:

http://www.scdot.org/doing/businessdevelop_scunified.aspx

OVER-CONCENTRATION (SECTION §26.33)

CMCOG has not identified any areas of over-concentration. CMCOG will continue to monitor DBE participation and usage, and will take appropriate actions to address any identified over-concentrations.

BUSINESS DEVELOPMENT PROGRAMS (SECTION §26.35)

CMCOG will not have a business development or mentor – protégé program.

FOSTERING SMALL BUSINESS PARTICIPATION (SECTION §26.39)

The CMCOG has incorporated this nondiscriminatory element in its DBE program in order to facilitate participation by small businesses concerns in CMCOG projects. Under this element of the DBE program, CMCOG will consider all actions and will avoid unnecessary and unjustified bundling of contract requirements that preclude small business participation in procurements as contractors.

Small Business Administration defines a small business concern as one that is independently owned and operated, is organized for profit, and is not dominant in its field of operation, as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b). “Bundling of contract requirements” means consolidating two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to the following:

1. Diversity, size, or specialized nature of the elements of the performance specified;
2. Aggregate dollar value of the anticipated award;
3. Geographical dispersion of the contract performance sites; or
4. Any combination of the factors described above.

On prime contracts not having DBE contract goals, the CMCOG will require the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform. In addition, the CMCOG will ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

The CMCOG will accomplish its DBE contract goals by doing the following:

1. Helping small businesses to better understand the CMCOG’s contracting and procurement opportunities;
2. Continuing to identify and utilize small business firms that provide goods and services purchased by the CMCOG;
3. Encouraging small businesses, including those owned by minority and women, to pursue relevant certifications including M/W and UCP DBE certification; and
4. Hosting and participating in workshops, business development meetings and other events intended to enhance procurement opportunities for small businesses.

The CMCOG will implement the small business program within nine months of FTA approval of its DBE program. The CMCOG will verify business size through the DBE directory of South Carolina’s UCP, maintained by SCDOT.

The CMCOG will require prime contractors to identify small business subcontracts on large procurement as part of its small business element strategy.

QUOTAS (SECTION §26.43)

CMCOG does not use quotas in any way in the administration of this DBE program.

OVERALL GOALS (SECTION §26.45)

Amount of Goal

CMCOG has established an overall goal of 16 percent for DBE participation in USDOT assisted contracts. The goal is based upon evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and available to participate on USDOT assisted contracts.

The goal reflects the level of DBE participation anticipated, absent the effects of discrimination.

Method (Attachment 4)

In accordance with §26.45, CMCOG has employed a two–step process to calculate its DBE program goal. Step 1 involves determining a “base figure” for the relative availability of DBEs in the area. The base

figure is a percentage calculated as the ratio of available and potentially eligible DBEs to all available firms.

The data sources used to derive available DBEs and “all available” firms was as follows:

1. “Available DBEs” is derived from the total number of certified DBEs in the SCDOT DBE directory with the North American Industry Classification (NAICS) of 54169, 23731, & 54111 whose work type was listed as Other Scientific & Technical Consulting Services, Highway, Street & Bridge Construction, and Office of Lawyers for the State of South Carolina. The 2015 DBE program limited the search to these fields based on the types of contracts anticipated for the upcoming year.
2. “All available” firms is derived from the total number of firms with the NAICS of 54169, 23731, & 54111 found in Census Bureau’s County Business Patterns (CBP) for the State of South Carolina.
3. “Potentially eligible” DBEs were determined based upon the CBP and the SCDOT Disadvantaged/Minority and Women’s Business Enterprise Directory. Listed firms’ functions were evaluated to determine their eligibility to bid for proposed contracts (as listed above), and the resulting list was checked to ensure that no firms listed in the certified DBE list was repeated.

The method identified above resulted in a weighted base percent. Documentation of the process is included in Attachment 4. The second step involved examining available evidence to determine what adjustment, if any, was needed to the base figure in order to arrive at the overall goal that reflects as accurately as possible the DBE participation CMCOG would expect in the absence of discrimination. To determine what types of adjustments, if any, were needed to the base figure, one additional source of evidence was examined:

CMCOG examined the percentage of contract award amounts paid to DBE contractors and determined the historical median, in accordance with 49 CFR Part 26. (Attachment 4).

To calculate the CMCOG DBE goal, the relative availability of firms was averaged with the historical median of contract award amounts that were paid to DBE contractors thus utilizing the average of the two measures.

Reporting Process

CMCOG submits its overall goal to USDOT on August 1 every 3 years in 2016, 2019, 2022, 2025, etc... Before establishing the overall goal, CMCOG will consult with women, minority, DBE, non-DBE business communities and organizations as well as general consultant groups to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and CMCOG’s efforts to establish a level playing field for the participation of DBEs. A public meeting to address these issues, jointly sponsored by CMCOG, and South Carolina Department of Transportation is held on a triennial basis.

Prior to this consultation and approval by CMCOG policy board, CMCOG publishes and distributes a notice of this document and the corresponding DBE goal in general circulation publications, minority publications, and the CMCOG website. Public inspection of the proposed goal and its rationale are available for inspection during normal business hours at CMCOG's office for 30 days following the date of the notice. Both CMCOG and the USDOT agencies (FTA/FHWA/FAA) will accept comments on the goal for 45 days from the date of the notice.

Normally, CMCOG will issue this notice by June 1 every three years. Comments may be sent to:

Reginald Simmons
Central Midlands Council of Governments
236 Stoneridge Drive
Columbia, SC 29210
Telephone: (803) 376-5390
Fax: (803) 376-5394
E-Mail: rsimmons@centalmidlands.org

or

Civil Rights Officer
Federal Transit Administration Region IV
230 Peachtree Street, NW Suite 800
Atlanta, GA 30303

CMCOG's overall goal submission to USDOT will include a summary of information and comments received during this public participation process and CMCOG's responses.

CMCOG will begin using our overall goal on October 1, unless CMCOG has received other instructions from USDOT.

GOAL SETTING AND ACCOUNTABILITY (SECTION §26.47)

If the awards and commitments shown on CMCOG's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, we will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments;
2. Establish specific steps and milestones to correct the problems identified in the analysis;
and
3. Submit the plan to FTA within 90 days of the end of the affected fiscal year.

TRANSIT VEHICLE MANUFACTURERS GOALS (SECTION §26.49)

CMCOG will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, CMCOG may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

MEETING OVERALL GOALS/CONTRACT GOALS (SECTION §26.51)

The CMCOG will use contract goals to meet any portion of the overall DBE goal the CMCOG does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the CMCOG's overall DBE goal that is not projected to be met through the use of race-neutral means.

The CMCOG will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. The size of contract goals will be adapted to the circumstances of each contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

CMCOG will express a contract goal as a percentage of the total amount of a DOT-assisted contract.

BREAKOUT OF ESTIMATED RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION (SECTION §26.51A-C)

CMCOG will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating DBE participation. CMCOG uses the following race-conscious means to increase DBE participation by:

- aggressive outreach to potential DBE firms through the use of media advertisements,
- set individual goals on each DOT-assisted contract,
- other outreach events, promotion on the CMCOG website, and;
- business promotions and other events.

CMCOG also assists by making contractor listings available and generally encouraging teaming arrangements in CMCOG contracting.

The breakout of estimated race-neutral and race conscious participation will be:

- Race Neutral – 20%
- Race Conscious – 80%

This section of the program will be updated annually when the goal calculation is updated.

GOOD FAITH EFFORTS (SECTION §26.53)

Award of Contracts with a DBE Contract Goal: §26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, CMCOG will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Evaluation of Good Faith Efforts: 26.53(a) & (c)

The CMCOG's DBE Liaison Officer, shown below, is responsible for determining whether a bidder/offeror who has not met the contract goal and has documented sufficient good faith efforts to be regarded as responsive.

DBE Liaison Officer:
Reginald Simmons
236 Stoneridge Drive
Columbia, SC 29210
Phone: (803) 744-5133

The process used to determine whether good faith efforts have been made by a bidder are as follows:

1. Whether the consultant attended any pre-solicitation or pre-bid meetings that were scheduled by the CMCOG to inform DBEs of consulting and sub-consulting opportunities;
2. Whether the consultant or supplier provided notice in general circulation, trade association, and minority and female focus media concerning the sub-consulting opportunities;
3. Whether the consultant provided written notice to a reasonable number of specific DBEs that their interest in the contract was solicited in sufficient time to allow the DBEs to effectively participate;
4. Whether the consultant followed up the initial solicitation of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
5. Whether the consultant selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goal including, where appropriate, segmenting contracts into economically feasible units to facilitate DBE participation;

6. Whether the consultant provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
7. Whether the consultant negotiated in "good faith" with interested DBEs and not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
8. Whether the consultant effectively used the services of available minority and female community organizations, minority and female professional groups, local, state and federal minority and female business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBEs.

The CMCOG may, upon written notice to the consultant, meet with its officials to discuss or provide written evidence of "good faith effort" to subcontract and negotiate with DBEs and joint ventures involving DBEs and its ability to achieve the established goal. Failure of a consultant to meet or provide the requested written information at a stipulated time and place, without a demonstration of good cause, shall be cause for rejection.

The CMCOG will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/offeror.

Information to be Submitted: 26.53(b)

The CMCOG treats bidder/offers' compliance with good faith efforts' requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration: 26.53(d)

Within three days of being informed by the CMCOG that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following Reconsideration Official: Benjamin Mauldin, Executive Director, Central Midlands Council of Governments, 236 Stoneridge Drive, Columbia, SC 29212 Phone 803-376-5390. The Reconsideration Official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The CMCOG will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process cannot be administratively appealed to the Department of Transportation.

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals: 26.53(f)

The CMCOG requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without its prior written consent. Prior written consent will only be provided where there is “good cause” for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation. Before transmitting to the CMCOG its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to the CMCOG prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise CMCOG of why it objects to the proposed termination.

In those instances where “good cause” exists to terminate a DBE’s contract, the CMCOG will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The CMCOG will require the prime contractor to notify the DBE Liaison officer immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation. In this situation, the CMCOG will require the prime contractor to obtain prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the contractor fails or refuses to comply in the time specified, the CMCOG contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the CMCOG to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of _____ percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information:

- 1) the names and addresses of DBE firms that will participate in the contract;
- 2) a description of the work that each DBE firm will perform;
- 3) the dollar amount of the contract of each DBE firm participating;
- 4) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- 5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

COUNTING DBE PARTICIPATION (SECTION §26.55)

CMCOG will count DBE participation toward overall and contract goals as provided in 49 CFR §26.55.

UNIFIED CERTIFICATION PROGRAMS (SECTION §26.81)

CMCOG is a non-certifying member of the Unified Certification Program (UCP) administered by:

South Carolina Department of Transportation
Office of Business Development and Special Programs
P.O. Box 191
Columbia, SC 29202-0191
803-737-1372
Website: http://www.scdot.org/doing/businessdevelop_scunified.aspx

The South Carolina UCP will meet all of the requirements of 49 CFR Part 26. CMCOG will use and count for DBE credit only those DBE firms certified by the South Carolina UCP.

DE-CERTIFICATION (SECTION §26.87)

The de-certification of firms as DBE's will be based on UCP standards and will be conducted by the certifying agency listed above.

CERTIFICATION APPEALS (SECTION §26.89)

Any firm or complainant may appeal the decision in a certification matter to the certifying agency listed above.

PROCEDURES FOR CERTIFICATION DECISIONS (SECTION §26.91)

CMCOG will follow the certification processes of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. A copy of the South Carolina Department of Transportation (SCDOT) UCP certification procedures and/or UCP program is available at:

http://www.scdot.org/doing/businessdevelop_scunified.aspx

Any firm or complainant may appeal SCDOT UCP's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights Certification Appeals Branch
1200 New Jersey Ave. SE
West Building, 7th Floor
Washington, D.C. 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT-assisted contracting.

INFORMATION, CONFIDENTIALITY, AND COOPERATION (SECTION §26.109)

We will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter. Attachment 8 provides a description of the South Carolina Freedom of Information Act.

REPORTING TO USDOT

The CMCOG will report DBE participation as follows:

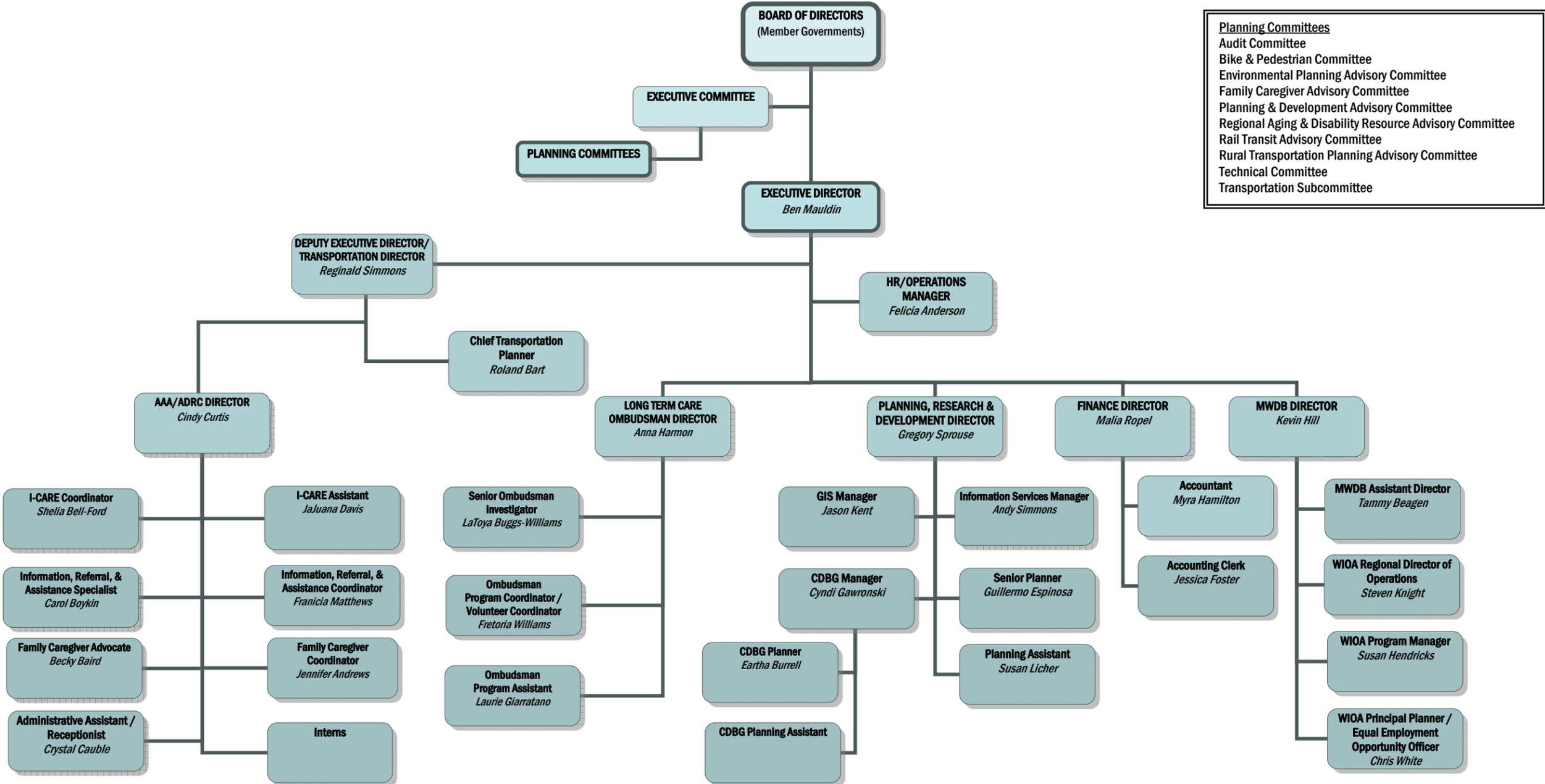
The CMCOG will report DBE participation on June 1 and December 1 using the "Uniform Report of DBE Awards or Commitments and Payments" form. These reports will reflect payments actually made to DBEs on DOT-assisted contracts.

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ATTACHMENT 1 - CMCOG ORGANIZATIONAL CHART

CMCOG OFFICIAL ORGANIZATIONAL CHART

MARCH 28, 2016



ATTACHMENT 2 - DBE DIRECTORY

DBE Directory

The DBE program is intended to ensure nondiscrimination in the award and administration of USDOT-assisted contracts in the highway, transit, and airport programs. The goals of the program are to remedy past and current discrimination against disadvantaged business enterprises, ensure a “level playing field” on which DBEs can compete fairly for DOT-assisted contracts, improve the flexibility and efficiency of the DBE program, and reduce burdens on small businesses.

These goals are, in part, accomplished by providing federal-aid projects with contract goals and implementing the South Carolina Unified Certification Program (SCUCP).

Please follow the link below for an updated copy of UCP DBE Directory. You will find two formats (PDF and Excel) for your convenience:

http://www.scdot.org/doing/businessdevelop_scunified.aspx

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**ATTACHMENT 3 - MONITORING AND ENFORCEMENT
MECHANISMS/LEGAL REMEDIES**

Mechanisms and Legal Remedies

CMCOG will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26. Every DOT-assisted contract is monitored to ensure that DBE subcontractors are on the job, that they are performing the work as approved, and that payments are made to DBEs consistent with previously approved work plans. The following specific procedures are established to monitor compliance after contract award:

1. CMCOG will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. CMCOG will consider similar action under our own legal authorities, including responsibility determinations in future contracts. CMCOG will identify regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participation in our procurement activities.
3. CMCOG will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. The prime contractor shall report DBE participation on a monthly basis in the form of a pay activity request. This mechanism will provide for a running tally of actual DBE attainment (e.g., the payment actually made to DBE firms), including a means of comparing these attainments to commitments. CMCOG staff will verify with the DBE at minimum on a quarterly basis the contract amount and payment to the DBE reported by the contractor.
4. CMCOG shall not release the contractor's retainage until all DBE subcontractors' participation information is reported.
5. In our reports of DBE participation to DOT, CMCOG will show both commitments and attainments, as required by the DOT reporting form.

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**ATTACHMENT 4 - SECTION 26.45: OVERALL GOAL
CALCULATION**



August 25, 2017

Ms. Dee Foster
Federal Transit Administration
Region IV Civil Rights Officer
230 Peachtree St., N.W., Suite 800
Atlanta, GA 30303

RE: Federal Identification Number: 1069 for the FY 2017-2019 DBE Goal

Dear Ms. Foster:

The Central Midlands Council of Governments has adopted an overall FY 2017-2019 Disadvantaged Business Enterprise goal of 16% for federal funds that will be expended in DOT-assisted contracts. We plan to achieve our goal through 80% race conscious and 20% race-neutral methods.

I have attached a spreadsheet that indicates the methodology used to obtain our goal. The overall weighted goal was calculated to be 54%. The number is driven by an anticipated construction cost of one project which offsets the overall calculations. Based on CMCOG's dedication to provide outreach and to promote certification through the South Carolina Department of Transportation, the Board of Directors felt that the more reasonable goal for FY 2017-2019 should be 16%.

If you have any questions or need additional information, please do not hesitate to contact me at 803-744-5133 or just send an email to rsimmons@centralmidlands.org. Thank you for your interest in this matter.

Sincerely,

Reginald Simmons
Deputy Executive Director/Transportation Director
Central Midlands Council of Governments

Attachments: FY 2017-2019 Goal (Step 1)
FY 2014-2016 Participation (Step 2)
The State Newspaper Ad
Public Forum – Sign In Sheet
Public Forum – Flyer

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Serving Local Governments in South Carolina's Midlands

236 Stoneridge Drive, Columbia, SC 29210 □ (803) 376-5390 □ FAX (803) 376-5394 □ Web Site: <http://www.centralmidlands.org>



August 25, 2017

Ms. Dee Foster
Federal Transit Administration
Region IV Civil Rights Officer
230 Peachtree St., N.W., Suite 800
Atlanta, GA 30303

RE: STEP 1 for the FY 2017-2019 DBE Goal

Dear Ms. Foster:

Attached, please find STEP 1 of the FY 2017-2019 DBE Goal for the Central Midlands Council of Governments (CMCOG). STEP 1 contains the CMCOG FY 2017-2019 project list with the associated cost for each project; the number of firms that are available in the South Carolina Department of Transportation UCP certified database; and the number of firms that are available as listed in the 2015 County Business Patterns for each project.

Please note that the total number of firms that are relatively available for FY 2017-2019 CMCOG projects has been calculated to be 8%. This relative availability was weighed against the percentage cost of all projects at a total of 54%. Please be advised that the average of these two percentages is above the recommended goal of 16% for FY 2017-2019. This is due to the anticipated cost on a construction project which elevates the total costs for the 3 year period.

The staff presented the recommended goal to the CMCOG Board of Directors on June 22, 2017. The Board ratified this decision on August 24th and approved a goal of 16% for FY 2017-2019. If you have any questions or need additional information, please don't hesitate to contact me at 803-744-5133 or send an email to rsimmons@centralmidlands.org. Thank you for your interest in this matter.

Sincerely,

Reginald Simmons
Deputy Executive Director/Transportation Director

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FY 2017, 2018, & 2019 DISADVANTAGED BUSINESS ENTERPRISE GOAL

(Step 1)

CMCOG Project	Type of Firm/NAICS Code (from the 2015 County Business Patterns)		Anticipated Project Cost	Percentage of the Total (Anticipated Project Cost divided by the Total Cost of DOT assisted contracts)
Site Selection Study	54169	Other Scientific & Technical Consulting Services	\$ 245,000.00	7%
Human Services Coordination Plan	54169	Other Scientific & Technical Consulting Services	\$ 125,000.00	4%
Legal Services	54111	Office of Lawyers	\$ 8,000.00	0%
Kershaw County Transit Feasibility Study	54169	Other Scientific & Technical Consulting Services	\$ 110,000.00	3%
Charlotte/Columbia Alternative Analysis	54169	Other Scientific & Technical Consulting Services	\$ 125,000.00	4%
South Main Street	23731	Highway, Street & Bridge Construction	\$ 2,400,000.00	70%
Bus Stop ADA Accessibility Assessment	54169	Other Scientific & Technical Consulting Services	\$ 100,000.00	3%
Rail Rapid Transit Study	54169	Other Scientific & Technical Consulting Services	\$ 200,000.00	6%
Transit ITS Plan	54169	Other Scientific & Technical Consulting Services	\$ 125,000.00	4%
Total DOT Assisted Contracts			\$ 3,438,000.00	100%

CMCOG Project	Type of Firm/NAICS Code (from the 2015 County Business Patterns)		Number of DBE's (from SCDOT Directory of DBE's updated May 12, 2017 statewide)	Number of Firms (from the 2015 County Business Patterns in SC)	Relative Availability (# of DBE's divided by # of all firms)	Weight (from % of the Total in above chart)	Relative Availability (multiplied times) Weight
Site Selection Study	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0713	0.0128
Human Services Coordination Plan	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0364	0.0065
Legal Services	54111	Office of Lawyers	1	2,411	0.0004	0.0023	0.0000
Kershaw County Transit Feasibility Study	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0320	0.0057
Charlotte/Columbia Alternative Analysis	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0364	0.0065
South Main Street	23731	Highway, Street & Bridge Construction	90	129	0.6977	0.6981	0.4870
Bus Stop ADA Accessibility Assessment	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0291	0.0052
Rail Rapid Transit Study	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0582	0.0105
Transit ITS Plan	54169	Other Scientific & Technical Consulting Services	30	167	0.1796	0.0364	0.0065
Totals			301	3709	0.0812	1.0000	0.5409

2017, 2018, & 2019 Goal Using Ratio (from Combined Total of Relative Availability)	8%
2017, 2018, & 2019 Goal Using Weighting (from Relative Availability multiplied times Weight)	54%
2017, 2018, & 2019 Goal Using the Average (Ratio plus Weight divided by 2)	31%
Staff Recommended Goal for Fical Years 2017, 2018, & 2019	16%



August 25, 2017

Ms. Dee Foster
Federal Transit Administration
Region IV Civil Rights Officer
230 Peachtree St., N.W., Suite 800
Atlanta, GA 30303

RE: STEP 2 for the FY 2014-2016 DBE Goal

Dear Ms. Foster:

Attached, please find STEP 2 of the FY 2017-2019 DBE Goal for the Central Midlands Council of Governments (CMCOG). STEP 2 contains the FY 2014-2016 projects with the associated contractors and subcontractors for each. The CMCOG DBE Goal for FY 2014-2016 was 16%. Actual participation of DBEs in DOT-assisted contracts for FY 2014-2016 was 8.56% with an actual financial participation of \$21,098.

The staff presented the FY 2014-2016 finding to the CMCOG Board of Directors on June 22, 2017. The Board ratified these finding on August 24, 2017 and approved a goal of 16% for FY 2017-2019. If you have any questions or need additional information, please don't hesitate to contact me at 803-744-5133 or send an email to rsimmons@centralmidlands.org. Thank you for your interest in this matter.

Sincerely,

Reginald Simmons
Deputy Executive Director/Transportation Director

2014 - 2016 CMCOG Actual DBE Participation
(Step 2)

CMCOG Project	Prime Contractor	Subcontractor(s)	Overall Contract Amount	Contract Amount Paid Since July 1, 2013	Prime Contractor SCDOT UCP Certified DBE?	Subcontractor SCDOT UCP Certified DBE?	Percentage of SCDOT UCP Certified DBE Participation	Amount of SCDOT UCP Certified DBE Participation
Walk Bike Columbia	Alta Planning + Design	Sprague & Sprague Fuss & O'Neill CDM Smith	\$ 237,500.00	\$ 237,500.00	No	Yes No No	9%	\$ 21,097.75
Legal Services	Belser & Belser		\$ 24,000.00	\$ 9,028.00	No	No	0%	\$ -
Totals			\$ 261,500.00	\$ 246,528.00				\$ 21,097.75

CMCOG 2014 - 2016 Goal:

16%

Actual Overall DBE Participation (Actual Participation divided by Total Contracts Amount) (%):

8.56%

Actual Overall DBE Participation (Actual Overall DBE Participation %age multiplied by Total Contracts Amount (\$):

\$21,097.75

(1) (i)=contracts carryover to new fiscal year, total reflect amount spent on since July 1, 2013

(1) (ii)= no disparity studies conducted by MPO in last five years

(1)(iii)= base figure of another recipient not utilized

(2)= not available

(3)=no adjustment attempted for past discrimination



August 25, 2017

Ms. Dee Foster
Federal Transit Administration
Region IV Civil Rights Officer
230 Peachtree St., N.W., Suite 800
Atlanta, GA 30303

RE: Public Participation for the FY 2017-2019 DBE Goal

Dear Ms. Foster:

Attached, please find a copy of the advertisement, public meeting sign-in sheet, and public meeting flyer for the FY 2017, 2018, & 2019 DBE Goal for the Central Midlands Council of Governments (CMCOG). CMCOG advertised in The State newspaper on June 7, 2017. The staff also sent emails and flyers to prospective DBEs about the public meeting held on July 11th. Persons representing two (2) small/minority/women-owned businesses participated with staff and members of the SCDOT DBE section (See the attached list). There were no written or verbal comments received concerning our FY 2017-2019 DBE Goal.

The staff presented the public participation finding to the CMCOG Board of Directors on August 24, 2017. The Board accepted these finding and approved a goal of 16% for FY 2017-2019. If you have any questions or need additional information, please don't hesitate to contact me at 803-744-5133 or send an email to rsimmons@centralmidlands.org. Thank you for your interest in this matter.

Sincerely,

Reginald Simmons
Deputy Executive Director/Transportation Director

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The State



The State Media Company

NEWSPAPER • DIGITAL • MAGAZINES • DIRECT MAIL

Order Confirmation

Customer

CENTRAL MIDLANDS COUNCIL OF GO

Customer Account

135271

Customer Address

236 STONERIDGE DR
COLUMBIA SC 29210 USA

Customer Phone

803-376-5389

Customer Fax

Sales Rep

jjeffries@charlotteobserver

Payor Customer

CENTRAL MIDLANDS COUNCIL OF GO

Payor Account

135271

Payor Address

236 STONERIDGE DR
COLUMBIA SC 29210 USA

Payor Phone

803-376-5389

Customer EMail

jfooster@cmcog.org

Order Taker

sjackson@charlotteobserver.com

<u>PO Number</u>	<u>Payment Method</u>	<u>Blind Box</u>	<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>
	Check		0	0	1

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$349.65	\$0.00	\$349.65	\$0.00	\$349.65

<u>Ad Order Number</u>	<u>Order Source</u>	<u>Ordered By</u>	<u>Special Pricing</u>
0003137387		Reginald Simmons	

Invoice Text
Public Notice - FY 2017-2019 Public Notice-DBE GOAL 6-7-17 to 7-31-17

Promo Type

Package Buy

Materials

Ad Order Information

Ad Number **Ad Type** **Production Method** **Production Notes**
0003137387-01 COL-Legal-Liner AdBooker

External Ad Number **Ad Attributes** **Ad Released** **Pick Up**
No

Ad Size **Color**
2 X 32 li

Product **Placement** **Times Run** **Schedule Cost**
COL- The State 0300 - Legals Classified 1 \$334.65

Run Schedule Invoice Text **Position**
Public Notice CENTRAL MIDLANDS COUNCIL O 0301 - Legals & Public Notices

Run Dates
06/23/2017

Product **Placement** **Times Run** **Schedule Cost**
COL-upsell.ST.com 0300 - Legals Classified 7 \$15.00

Run Schedule Invoice Text **Position**
Public Notice CENTRAL MIDLANDS COUNCIL O 0301 - Legals & Public Notices

Run Dates
06/23/2017, 06/24/2017, 06/25/2017, 06/26/2017, 06/27/2017, 06/28/2017, 06/29/2017

Public Notice

CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS
SEEKS INPUT ON D.B.E. GOALS AND ENCOURAGES D.B.E.
CERTIFICATION

The Central Midlands Council of Governments (CMCOG) has established its Fiscal Years 2017 thru 2019 Disadvantaged Business Enterprise (DBE) program goal for CMCOG procurements. In compliance with 49 CFR Parts 23 and 26, as amended, CMCOG intends to submit to the FTA a program goal of 16% for DBE participation in CMCOG contract activities.

CMCOG will receive public input regarding the established goal between the hours of 5:30 p.m. and 7:00 p.m., Tuesday, July 11, 2017, at the Central Midlands COG Offices located at 236 Stoneridge Drive, Columbia, SC. SCDOT DBE Certification Applications will be available and staff will be on hand to answer questions regarding DBE certification. If you are unable to attend, CMCOG will continue to accept written comments for a period of 45 days from this notice. Direct comments to the CMCOG's DBE Liaison Officer at the address shown above or e-mail comments to rbart@centralmidlands.org.

Questions and/or requests for directions should be directed to Roland Bart at rbart@centralmidlands.org or (803) 376-5390.
3137387

SAVE THE DATE: TUESDAY JULY 11, 2017 5-7 pm
THE CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS
FY 2017, 2018 & 2019 DISADVANTAGED BUSINESS ENTERPRISE (DBE)
GOAL & CERTIFICATION MEETING

Location:

Central Midlands
Council of
Governments
236 Stoneridge Drive
(Behind Embassy
Suites)
Columbia, SC 29210

Date:

July 11, 2017

Time:

5:00 p.m. - 7:00 p.m.
(Drop in)

To All Small Business Owners (especially minority and/or women owned businesses):

In cooperation with our Federal and State partners, the Central Midlands Council of Governments (CMCOG) is encouraging all small businesses to become certified under the Unified Certification Program (UCP). This program is a federal program that is administered by the SC Department of Transportation (SCDOT) and is designed to create a level playing field on which small businesses can compete for federally funded contracts.

CMCOG will be hosting a public meeting to announce its FY 2017, 2018 & 2019 DBE Goal and to provide an opportunity for small businesses to become certified under the UCP.

SCDOT staff may be on hand to provide information on the advantages and benefits of becoming a certified UCP DBE.

If you are already certified by SCDOT - You do not need to attend.

All are welcome, so please join us.

If you have any questions please contact Mr. Roland Bart at 803-376-5390 or by email at rbart@centralmidlands.org.

DBE Open House 7-11-2017 COATS CMCOCG

	Name	Company	Email	Mailing Address	Phone #
1	April James	iRealty International	april@realityjames.com	1301 Wondax Dr Chapin SC 29036	803-479-3357
2	Kell Kraus Koss	STITCH WIZARD	KAREN E STITCHWIZARD.BIZ	7210 N Broad River Rd IRMO	803-233-4000
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

**ATTACHMENT 5 – FORMS FOR DEMONSTRATION OF
GOOD FAITH EFFORTS**

SCHEDULE OF DBE PARTICIPATION
“CERTIFICATION OF BEST EFFORTS”

Specification Number: _____

Name of Bidder: _____

DBE	Detailed Description of Work	DBE Participation	
		Dollar Amount \$	DBE %
NAME:	YES NO Will any of this work be subcontracted by the DBE? (See Note #3) Will bidder assist DBE with any of this work? (See Note #4)		
ADDRESS:			
PHONE NO:			
IRS ID#:			
CERT. NO:			
CERT. AGENCY			
NAME:	YES NO Will any of this work be subcontracted by the DBE? (See Note #3) Will bidder assist DBE with any of this work? (See Note #4)		
ADDRESS:			
PHONE NO:			
IRS ID#:			
CERT. NO:			
CERT. AGENCY			
DUPLICATE THIS FORM IF YOU ARE LISTING MORE THAN TWO (2) DBE SUBCONTRACTORS PLEASE NOTE: 1. A binding commitment must have been achieved with the DBE for the detailed work and dollar amount stated on this form. 2. DBE listed above must be certified by a certifying agency in order to be credited towards the required minimum participation goals. 3. If the DBE intends to subcontract more than 10% of the work detailed on this form, such subcontractors, description of work, and dollar amount must be listed on a duplicate copy of this form. 4. If the bidder plans to supply the DBE with materials, personnel or equipment, such assistance must be listed on this form in the block marked “Detailed Description of work.” 5. Any change to this schedule (the named DBE, description of work, or dollar amount) must be approved in advance by the Affirmative Action Officer (AAO).			

SCHEDULE OF BINDING COMMITMENTS WITH DBE BUSINESSES

“CERTIFICATION OF BEST EFFORTS”

Specification Number: _____

Name of Bidder: _____

NAME OF CERTIFIED DBE FIRMS* (INCLUDING CONTRACTING AGENT’S NAME)	TYPE OF CONTRACT WORK SPECIFY CONSTRUCTION, INSTALLATION, SUPPLY, ETC.	TOTAL DOLLAR AMOUNT OF PARTICIPATION	PERCENTAGE OF TOTAL PARTICIPATION
			DBE %

*Bidder’s are hereby notified that all firms listed above will be contacted to verify their level of participation.

Signature: _____

Name: _____

Title: _____

DOCUMENTATION OF BEST EFFORTS

Specification Number: _____ Name of Bidder: _____

**CERTIFIED DBE BUSINESSES
UNAVAILABLE TO PARTICIPATE IN THE CONTRACT.**

List below the name of all certified DBE businesses whose interest in the contract were solicited, but who were unavailable to work on this project or were unable to prepare a quote. State the reasons for the unavailability of certified DBE businesses. In order to facilitate verification and avoid delays in contract awards, it is requested that each business listed below be identified on the “Affidavit of Unavailability of Certified DBE Businesses”.

INFORMATION AND ASSISTANCE PROVIDED TO CERTIFIED DBE BUSINESSES

Include names and addresses of all certified DBE businesses that you provided with plans, specifications, and requirements of the contract. Detail all assistance you provided to interested certified DBE businesses and all your efforts at negotiation for specific sub-bids, and include any advertisements soliciting their participation.

I do hereby attest that I have exerted best efforts, but have been unable to obtain the required minimum participation goals for the following reason: *

Company Name

Specification Number

Name (Signature)

Title

*You may attach supplemental pages and documentation if necessary.

AFFIDAVIT OF UNAVAILABILITY OF CERTIFIED DBE BUSINESSES

Specification Number: _____ Name of Bidder: _____

I _____ do hereby attest that I was offered an opportunity to bid on the contract for:

(Description of Contract)

By _____
(Name of Prime Bidder)

but was unavailable to participate/unable to prepare a quote for the following reasons:*

Name of Certified DBE Business

Address and Phone Number

Signature of Principal of Certified DBE Business

Title

Certifying Agency and Number

*You may attach supplemental pages and documentation if necessary.

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ATTACHMENT 6 - UCP AGREEMENT

Agreement Establishing South Carolina Unified Certification Program For the Disadvantaged Business Enterprise Program

This AGREEMENT is made and entered into by and between the attached listed participants (hereinafter "Program Partners") and the South Carolina Department of Transportation (SCDOT), each a recipient as defined in 49 CFR Part 26.81 and in accordance with SCDOT approved Disadvantaged Business Enterprise (DBE) Program.

WHEREAS, 49 CFR Part 26.81 requires federal transportation fund recipients of a state to create a Unified Certification Program (UCP) as part of each recipient's DBE program; and

WHEREAS, the parties require certification, recertification, and decertification of firms as a DBE; and

WHEREAS, all recipients of federal transportation funds in this state are covered by the requirements of 49 CFR, and are also required to participate in a Unified Certification Program; and

WHEREAS, the parties desire to join together for cooperative action pursuant to carrying out the requirements of 49 CFR Part 26 and to establish a South Carolina Unified Certification Program (SCUCP); and

WHEREAS, by that Agreement all current recipients and/or future recipients identified by SCDOT are bound by the requirements of the SCUCP, which is a continuation of the SCDOT current and previous process. This Agreement applies to all direct and indirect recipients.

NOW, THEREFORE, in consideration of the mutual promises and benefits that each party shall derive therefrom, the parties agree as follows:

ARTICLE I

PURPOSES

The parties have entered into this Agreement for the purposes of creating a South Carolina Unified Certification Program (SCUCP) to be administered by the South Carolina Department of Transportation, Office of DBE & Special Programs.

SCDOT shall provide "one-stop shopping" to applicants for DBE certification, so that an applicant will apply only once for a DBE certification which is to be honored by all USDOT recipients in South Carolina. SCDOT will develop a uniform application letter and notice of certification. A uniform certification application developed by the USDOT may be designated as the official application. The application may be modified as permitted by the USDOT to comply with streamlining adopted by SCDOT, the lead agency.

SCDOT will review all DBE applicants of Program Partners. This shall include firms that provide aviation, heavy highway and transit oriented services or products, including but not limited to, aviation specialty firms, heavy highway and bridge construction, products and services, planning and engineering consultants, specialty consultants, non-heavy construction, products and services, roadway suppliers, steel manufacturers or fabricators, food service firms, and structural construction firms.

choose to appeal the decision, they may re-apply after a period of twelve months from the date of the Letter of Denial.

Section 2.2 Right to Appeal

A firm may appeal the decision of the SCDOT Director/DBE Office. Appeals are to go to the South Carolina Administrative Law Judge Division (ALJD) pursuant to 25A S. C. Code Regs. 63-704(I) and must be sent within 15 days of receipt of the Letter of Denial; or a firm may choose to appeal directly in writing to the USDOT within 90 days of the date of final decision by the SCDOT Director/DBE Office.. Appeals to USDOT may be sent to the following address: Department of Transportation, Office of Civil Rights, 400 7th Street, SW, Room 5414, Washington, DC 20590.

If the applicant does not appeal to the ALJD or the USDOT within the allotted time, the denial becomes administratively final. When a decision of the SCDOT Director/DBE Office to deny certification is upheld in the appeals process, the firm in question is not eligible to participate as a DBE on federally funded projects and may not reapply for DBE certification for at least one year from the date of the Letter of Denial by the SCDOT Director/DBE Office.

Section 2.3 Expansion Request for Additional Types of Work

In accordance with 49 CFR Part 26.71(n), SCDOT will grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to demonstrate ownership and control of the firm. SCDOT may -- expand the list of work areas for a certified DBE after the firm has demonstrated its ability with respect to that type of work.

Section 2.4 Unified DBE Directory

SCDOT will maintain a unified DBE directory for all firms certified by SCDOT, to include the firm's name, address, telephone number, and the types of work the firm has been certified to perform as a DBE. SCDOT will make the Directory available as follows:

- a. An electronic version of the directory will be updated daily with additions, deletions, and other changes as they occur and in accordance with 49 CFR Part 26.81(g).
- b. The electronic version of the directory will be used as the official directory-reference and available to the Program Partners and the general public on the SCDOT website at:
<http://www.dot.state.sc.us>.
- c. An updated hardcopy version of the directory will be readily available at SCDOT, Office of DBE & Special Programs, 955 Park Street, Columbia, South Carolina.

Section 2.5 Implementation Date

The SCUCP will be fully operational and open to receive applications within 90 days of the approval of the SCUCP by the USDOT Secretary of Transportation. (See Attachment: Implementation Plan)

After the effective date of the SCUCP, all new firms must be certified by SCDOT based on guidelines prescribed in 49 CFR Part 26 and provisions under the SCUCP Agreement in order to be recognized as certified for USDOT-funding purposes. All DBE firms seeking recertification or certification renewal must also follow the process established by the SCUCP.

Section 2.13 Compliance and Enforcement

SCDOT will notify the appropriate Program Partner when an enforcement issue is identified. The individual Program Partner is then responsible to take the appropriate enforcement action in accordance with 49 CFR Part 26, Subpart F, Compliance and Enforcement.

ARTICLE III

TERM AND SCOPE OF AGREEMENT

Section 3.1 Term

This Agreement shall be effective immediately upon its execution by all the parties hereto and the approval of the SCUCP by the USDOT Secretary of Transportation. This Agreement and the SCUCP shall continue in force as long as required by federal laws and regulations, unless terminated pursuant to Section 3.2 of this Agreement.

Section 3.2 Termination

Any party to this Agreement may terminate its relationship to the SCUCP by official notification including a showing of non-recipient status to the SCDOT. SCDOT will notify the USDOT of this request for termination.

Section 3.3 Limited Agreement

This Agreement is limited in scope and nothing contained in this Agreement shall imply any relationship between any of the signing parties beyond the creation and implementation of the SCUCP.

Section 3.4 Amendment of the SCUCP Agreement

SCDOT, as the lead agency, may make minor revisions to this document to facilitate processing of certifications without formal approval of Program Partners.

**SCUCP Agreement
Signature Page**

IN WITNESS WHEREOF, the parties have executed this SCUCP Agreement on the dates indicated below.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

By: _____

Title: _____

Date: _____

PROGRAM PARTNER

By: Norman White

Agency: Central Midlands Council of Governments

Title: Executive Director

Date: 12-12-05

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ATTACHMENT 7 - REGULATIONS: 49 CFR PART 26

The Central Midlands Council of Governments will follow the up-to-date 49 CFR Part 26 electronic code of federal regulation found at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl.

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**ATTACHMENT 8 - CITIZEN'S GUIDE TO SOUTH CAROLINA
FREEDOM OF INFORMATION ACT**

A Citizen's Guide to South Carolina's Freedom of Information Act

South Carolina's Freedom of Information Act (FOIA) makes records and meetings of public bodies open and available to citizens and their representatives in the press. This openness is important because it allows the public to learn about the performance of public officials and the expenditure of public funds.

As a citizen of South Carolina, you have the right to attend meetings of commissions, councils, boards and other public bodies. You have a right to see and copy records of public bodies. A record cannot be withheld and a meeting cannot be closed unless a specific exemption applies. The FOIA -- also known as the Sunshine Law because it shines light on government meetings and records -- is essential to our democratic form of government.

Many people think the FOIA is too hard to use or costly, or that it takes forever to get the information that you are seeking. We hope this guide will break down the FOIA into an easy-to-understand summary with answers to frequently asked questions.

Who or what is covered by the FOIA?

A "public body" is any entity supported by public funds, even in part, or that expends public funds. Public bodies include state and local agencies, school boards and city councils. Committee and subcommittee meetings are included. Even non-profit agencies and chambers of commerce that receive public funds are subject to the FOIA. Federal agencies are not covered by state law and have their own FOIA. South Carolina's FOIA starts with the presumption that all public body records and meetings are open and available to the public. A record cannot be withheld and a meeting cannot be closed unless a specific exemption or some other state law applies. Just because an exemption could apply, however, doesn't mean it must. A public body may claim an exemption, but is not required to do so. If claimed, an exemption must be interpreted narrowly to increase awareness of all citizens of public activities.

PUBLIC RECORDS

The law says public records include all books, papers, maps, photographs, cards, tapes, recordings, or other documentary material regardless of physical form or characteristics that is prepared, owned, used, in the possession of, or retained by a public body. This includes electronic records such as emails. The FOIA does not require a public body to create a record that doesn't already exist. If part of a document can legally be shielded from release, that doesn't mean the entire document may be withheld. The agency must separate the exempt data and release the rest of it (this usually means taking a marker and blacking out some information).

Do I have to file a formal FOI request to get information?

Before filing a formal FOI request, you may want to call or visit the public body and just ask for the information you're seeking. A formal FOI request may not be needed.

How do I file an FOI request?

There is no required form, but your FOI request must be in writing. Just ask for what you want and mention the words freedom of information. Mail, fax or deliver it to the public body. Be specific in what you ask for. For a sample FOI request, visit: <http://www.scpres.org/foia.html>.

How much can a public body charge me for providing the records?

A public body may charge only the actual cost of gathering and copying records in response to your request. Records must be furnished at the lowest possible cost and in a convenient and practical form. The agency may require a deposit. A reasonable cost is 10 to 25-cents a page. If you are quoted more than that, ask for a detailed explanation of the charges and challenge excessive costs with the agency head or governing body.

How long will it take to get a response?

No exact deadline is specified by the law, but the law requires a timely response. When the public body gets your FOI request, it has 15 working days to respond as to whether it will comply or claim an exemption. You should usually get your records within 15 working days, but the agency has a reasonable time after its response to collect and provide your data if needed. If any part of the record is to be withheld, the agency must tell you exactly which FOIA exemption justifies the denial. If the public body does not respond at all within the allotted 15 days, the FOI request is considered granted.

What kinds of records are not required to be disclosed under the FOIA?

Public bodies in the Palmetto State are able to withhold certain specific records. Exemptions are discretionary, and these exemptions must be interpreted narrowly to increase awareness of all citizens of government activities. Exemptions include:

- Highly personal information such as Social Security numbers.
- Trade secrets of public bodies and tax standards used by the Department of Revenue
- Legal correspondence violating attorney-client privilege
- Certain police records that would harm the agency's efforts in a specific case
- Contract documents until the contract is completed, including the sale of property
- Industrial development offers until the offer is accepted

Is certain information specified as open to the public without question?

Yes. Most importantly, any information taken from an account, voucher or contract dealing with the receipt or expenditure of public funds is specified in the law as open. Also specified as open are names of employees, staff manuals and instructions, minutes of meetings and law enforcement reports on crimes.

Are salaries public information?

Yes, with certain limits. The FOIA requires release of exact salaries of public employees who make \$50,000 or more. Below that, salaries must be released in \$4,000 ranges.

PUBLIC MEETINGS

The law says a public meeting is a gathering of a quorum (simple majority) of a public body, either in person or by telephone or computer, to discuss or act upon public business. Work sessions, ad hoc committees, retreats, and subcommittee and committee meetings are covered by the law. All meetings of public bodies are open and public notice of the meetings must be given 24 hours in advance.

Who can attend a public meeting?

The public has a right to attend and record or film meetings, work sessions and retreats of all public bodies unless closed for limited and specific reasons.

How do I know when a public body is meeting?

Before the public can attend a meeting, it has to know about it. The FOIA requires public bodies to announce the schedule of regular meetings at the first of each year, and if there is an agenda, to make it available at least 24 hours before the scheduled meeting. Usually notice is also published in the local newspaper and posted at the place of the meeting. For emergency meetings, at least some notice of time, place and agenda must still be given.

Where can I find meeting minutes and what should they include?

Public bodies must take minutes at the meeting. Minutes are considered public records. Though minutes don't have to be in a specific format, they must, at a minimum, include the date, time and location of the meeting, which members of the public body were there and which ones weren't, a summary of the discussions and a record of any votes taken. Minutes of meetings held in the previous six months must be made available to the public without a written request during the public body or agency's business hours.

When can a public body close its meeting to the public?

All public business should be performed in an open and public manner. However, there are certain exemptions in the FOIA that a public body may use to go into a closed meeting. Exemptions include:

- discussions of the hiring, firing, promotion or discipline of an employee or student
- discussion of contract negotiations, including the sale of property
- receipt of legal advice (Public bodies may receive legal advice behind closed doors when it relates to a pending claim, the position of the public body in an adversarial matter or any matter covered by attorney client privilege. Such exemptions are put in the law to provide shelter when necessary. Having an attorney present is not a carte blanche excuse for secrecy.)
- discussion of security personnel or devices
- discussions that may lead to criminal prosecution
- discussion of business recruitment/economic development

When can a public body go into a closed meeting?

Before a public body may go into a closed meeting (also known as Executive Session), it must make a motion in open session, stating the purpose of the closed meeting and identifying the specific exemption that covers the topic. A general reference such as "personnel matters" is not sufficient. The members of the body must vote on the motion.

Can a public body vote in a closed meeting?

No votes or actions may be taken in the closed session. All votes must be made in front of the public.

Can I record a meeting?

Public meetings, except for executive sessions, may be recorded or filmed, provided you don't interfere with the meeting.

MORE INFORMATION

If your FOIA request is denied or you get no response, or if a public meeting is closed illegally, where do you go?

If you feel you've been wrongfully denied a public record, if a public body doesn't respond to your request for records, or if you think the notice for a meeting or the topic of a meeting was improper, there are a few things you can do. For starters, ask to speak to a supervisor or the agency head. Show them the law. If an amicable solution cannot be reached, a lawsuit is an option. Anyone can file a suit in circuit court asking it to determine whether an FOIA violation has occurred. The statute of limitations for this is one year. An attorney is not necessary to file suit but your chances of success are improved with an attorney, and, if you win, you may be able to recoup your attorneys' fees and costs.

Where can I go to find out more about the FOIA?

For a copy of the FOIA and more information, visit <http://scpress.org/foia.html>. The Reporters Committee for Freedom of the Press also has a state-by-state guide that has detailed information on each state's FOIA. The South Carolina section, written by SCPA Attorney Jay Bender, is available here: <http://www.rcfp.org/south-carolina-open-government-guide>.

Our federal government also has an FOIA. For more information on open government at the federal level, visit <http://www.rcfp.org/federal-open-government-guide>.